

1
2
3
4
5
6
7
8
9
10
11
12
13 **UNITED STATES DISTRICT COURT**
14 **WESTERN DISTRICT OF WASHINGTON**
15 **AT SEATTLE**
16

17 **COLOPLAST A/S.,**

18
19 **Plaintiff,**

20 **v.**

21 **GENERIC MEDICAL DEVICES, INC.,**

22
23 **Defendant.**
24
25
26
27

No. _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY DEMAND

28
29
30 Plaintiff Coloplast A/S for its Complaint against Generic Medical Devices, Inc. alleges as
31 follows:
32

33 **PARTIES**
34

35 1. Plaintiff Coloplast A/S (“Coloplast”) is a Danish corporation headquartered in
36 Humlebaek, Denmark. Coloplast has a subsidiary, Coloplast Corp., which operates in the United
37 States and is headquartered in Minneapolis, Minnesota.
38

39 2. Defendant Generic Medical Devices, Inc. (“GMD”), on information and belief, is
40 a corporation organized and existing under the laws of the state of Delaware, with its principal
41 place of business at 5727 Baker Way NW, Suite 201, Gig Harbor, Washington 98332.
42
43
44
45
46
47
48
49
50
51

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over GMD because, on information and belief, GMD transacts business and has continuous and systematic contacts in this district, maintains an ongoing presence within this district, and has purposefully availed itself of the privileges and benefits of the laws of the state of Washington.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1400(b).

PATENTS-IN-SUIT

7. On October 28, 2003, United States Patent No. 6,638,211 (“the ’211 patent”), entitled “Method for Treating Urinary Incontinence in Women and Implantable Device Intended to Correct Urinary Incontinence,” was duly and legally issued by the United States Patent and Trademark Office. Coloplast was assigned and continues to hold all right, title, and interest in the ’211 patent. A true and correct copy of the ’211 patent is attached as Exhibit A to this Complaint.

8. On November 24, 2009, United States Patent No. 7,621,864 (“the ’864 patent”), entitled “Method for Treating Urinary Incontinence in Women and Implantable Device Intended to Correct Urinary Incontinence,” was duly and legally issued by the United States Patent and Trademark Office. Coloplast was assigned and continues to hold all right, title, and interest in the ’864 patent. A true and correct copy of the ’864 patent is attached as Exhibit B to this Complaint.

FIRST CAUSE OF ACTION
INFRINGEMENT OF U.S. PATENT NO. 6,638,211

9. Coloplast realleges and incorporates by reference paragraphs 1 through 8 as if fully stated herein.

10. GMD, on information and belief, markets female urinary incontinence sling systems that are used by medical professionals in practicing a transobturator surgical technique (“GMD sling systems”) covered by one or more claims of the ‘211 patent. The GMD sling systems include the GMD Universal Female Urinary Incontinence Sling System. The components offered under the GMD Universal Female Urinary Incontinence Sling System label are shown in a product brochure available at www.gmd-us.com/products/ and are also reproduced below:

UNIVERSAL SLING

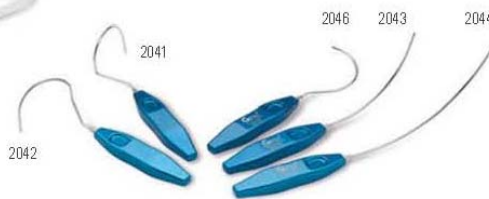
Code:	Description:
1010	1 GMD Universal Urinary Incontinence Sling

Just pick your reusable trocar to use with the Universal Sling Assembly



REUSABLE TROCARS

Code:	Description:
2041	Right Spiral
2042	Left Spiral
2043	Short Curve
2044	Long Curve
2046	Large Hook



SINGLE-USE PRODUCTS

Code:	Description:
1015	1 GMD Universal Urinary Incontinence Sling and Single-Use Trocar Kit



11. GMD, on information and belief, has knowledge of the ‘211 patent and, in marketing and selling its GMD sling systems, encourages and/or instructs third parties, including medical professionals, to use GMD sling systems in a manner that infringes at least one claim of the ‘211 patent.

12. Accordingly, GMD, on information and belief, has infringed and is infringing the ‘211 patent in violation of 35 U.S.C. § 271 by using GMD sling systems with a transobturator

1 surgical technique, actively inducing medical professionals to use GMD sling systems with a
 2 transobturator surgical technique, and/or contributing to the surgical use of GMD sling systems
 3 with a transobturator technique.
 4

5
 6 13. GMD's acts of infringement have caused and continue to cause damage to
 7 Coloplast, and Coloplast is entitled to recover from GMD the damages sustained by Coloplast in
 8 an amount subject to proof at trial. GMD's acts of infringement will irreparably injure Coloplast
 9 unless and until such infringing activities are enjoined by this Court.
 10
 11

12
 13
 14
 15 **SECOND CAUSE OF ACTION**
 16 **INFRINGEMENT OF U.S. PATENT NO. 7,621,864**
 17

18 14. Coloplast realleges and incorporates by reference paragraphs 1 through 13 as if
 19 fully stated herein.
 20

21 15. GMD, on information and belief, has knowledge of the '864 patent and, in
 22 marketing and selling its GMD sling systems, encourages and/or instructs third parties, including
 23 medical professionals, to use GMD sling systems in a manner that infringes at least one claim of
 24 the '864 patent.
 25
 26
 27
 28

29 16. Accordingly, GMD, on information and belief, has infringed and is infringing the
 30 '864 patent in violation of 35 U.S.C. § 271 by using GMD sling systems with a transobturator
 31 surgical technique, actively inducing medical professionals to use GMD sling systems with a
 32 transobturator surgical technique, and/or contributing to the surgical use of GMD sling systems
 33 with a transobturator technique.
 34
 35
 36
 37
 38

39 17. GMD's acts of infringement have caused and continue to cause damage to
 40 Coloplast, and Coloplast is entitled to recover from GMD the damages sustained by Coloplast in
 41 an amount subject to proof at trial. GMD's acts of infringement will irreparably injure Coloplast
 42 unless and until such infringing activities are enjoined by this Court.
 43
 44
 45
 46
 47

48 **PRAYER FOR RELIEF**
 49

50 WHEREFORE, Coloplast respectfully requests this Court:
 51

1 A. To enter judgment that GMD has infringed the '211 and '864 patents in violation
2 of 35 U.S.C. § 271;
3

4 B. To enter orders preliminarily and permanently enjoining GMD, its officers,
5 agents, servants, employees, attorneys, and all persons in active concert or participation with any
6 of the foregoing, who receive actual notice by personal service or otherwise of the orders, from
7 infringing the '211 and '864 patents in violation of 35 U.S.C. § 271;
8
9

10 C. To award Coloplast its damages in amounts sufficient to compensate it for
11 GMD's infringement of the '211 and '864 patents, together with pre-judgment and post-
12 judgment interest and costs, pursuant to 35 U.S.C. § 284;
13

14 D. To declare this case to be "exceptional" under 35 U.S.C. § 285 and to award
15 Coloplast its attorneys' fees, expenses, and costs incurred in this action; and
16

17 E. To award Coloplast such other and further relief as this Court deems just and
18 proper.
19

20
21
22
23
24
25
26
27 **DEMAND FOR JURY TRIAL**

28 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Coloplast respectfully
29 requests a trial by jury of any and all issues on which a trial by jury is available under applicable
30 law.
31
32

33 **DATED** this 8th day of February, 2010
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

s/ Jerry A. Riedinger

Jerry A. Riedinger, WSBA No. 25828

Email: JRiedinger@perkinscoie.com

Tyler C. Peterson, WSBA No. 39816

Email: TCPeterson@perkinscoie.com

PERKINS COIE LLP

1201 Third Ave., 48th Floor

Seattle, WA 98101

Telephone: (206) 359-8000

Fax: (206) 359-9000

David J.F. Gross, *Pro hac vice to be filed*

Email: DGross@faegre.com

Theodore M. Budd, *Pro hac vice to be filed*

Email: TBudd@faegre.com

Timothy E. Grimsrud, *Pro hac vice to be filed*

Email: TGrimsrud@faegre.com

Jeya Paul, *Pro hac vice to be filed*

Email: JPPaul@faegre.com

FAEGRE & BENSON LLP

2200 Wells Fargo Center

90 South Seventh Street

Minneapolis, MN 55402-3901

Telephone: (612) 766-7000

Fax: (612) 766-1600

Attorneys for Plaintiff Coloplast A/S